

Kirtish Patel
Reg. No. 66702-050
FPC Schuylkill
P.O. Box 670
Minersville, PA 17954

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

KIRTISH PATEL,

Petitioner,

V.

UNITED STATES
DEPARTMENT OF JUSTICE,
Respondent.

Civil Action

Case: 1:19-cv-02162

Assigned To : Nichols, Carl J.

Assign. Date : 7/15/2019

Description: FOIA/Privacy Act (I-DECK)

CIVIL ACTION - COMPLAINT

Petitioner Kirtish Patel, pro se, files the within Complaint against Respondent United States Department of Justice.

The Parties

1. Petitioner Kirtish Patel is an adult individual who is presently incarcerated and is in the custody of the Federal Bureau of prisons designated at FPC Schuylkill Camp 2, P.O. Box 670 Minersville, PA 17954.

2. Respondent Department of Justice is a governmental agency who maintains offices and operates within this judicial district at Executive Office for United States Attorneys, Freedom of Information Act & Privacy Act Staff, 600 E. Street, N.W., Room 7300, Washington, DC 20530.

PRAYER FOR RELIEF

3. The Court's jurisdiction in a FOIA matter is derived from
5 U.S.C. § 552(a)(4)(B) which reads in pertinent part:

On complaint, the district court of the United States ... has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complaint.

4. The basic principle behind the FOIA is "public access to Government documents." John Doe Agency v. John Doe Corp., 493 U.S. 146, 151 (1989); see also Landano v. United States Department of Justice, 956 F.2d 422, 425 (3rd Cir. 1992).

5. FOIA "reflects a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language." United States Department of Defense v. Federal Labor Relations Authority, 510 U.S. 487, 494 (1994).

6. On March 4, 2017, Petitioner issued a request for disclosure of all documents related to him, providing a Certificate of Identity to the office of United States Attorneys, requesting in detail the documents requested, the location of said documents and requesting a response within twenty (20) days. See Exhibit A.

7. The request was submitted to;

FOIA Privacy Act Staff
Executive Office of United States Attorneys
Department of Justice
600 E. Street, N.W., Room 7300
Washington, DC 20530

8. On March 4, 2017, Petitioner issued a request for disclosure of all documents related to him, to the FBI, providing a Certificate of Identity, requesting in detail the documents requested, the location of said documents and requesting a response within twenty (20) days. See Exhibit A.

9. The request was submitted to;

Freedom of Information/Privacy Act Office
U.S. Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

10. On May 17, 2017, the Executive Office for United States Attorneys acknowledged receipt of the request, assigned the request EOUSA-2017-01335, extended the time period to respond to the request for an additional ten days in accordance with 5 U.S.C. §552(a)(6)(B)(i) and assigned the request as complex. See Exhibit B.

11. On April 24, 2017 the FBI acknowledged receipt of the request and failed to make a determination.

12. Both the office of United States Attorneys and FBI, failed to make a determination in their response, failed to make a determination in the time period extended and failed to make a determination to this very day. See Citizens For Responsibility and Ethics In Washington v. Federal Election Commission, 711 F.3d 180 (2013)(Holding an agency must at least inform the requester of the scope of the documents that the agency will produce, as well as the scope of the documents that the agency plans to withhold under any FOIA exemptions). See Exhibit B.

13. More than twenty (20) days have passed since the requests were made. Despite receiving said requests, the agencies still have not made a determination.

14. "A FOIA requester is generally required to exhaust administrative appeal remedies before seeking judicial redress." See Hidalgo v. FBI, 344 F.3d 1256, 1258-59, 358 U.S. App. D.C. 104 (D.C. Cir. 2003); Oglesby v. Department of the Army, 920 F.2d 57, 61-62, 287 U.S. app. D.C. 126 (D.C. Cir. 1990) "But if an agency fails to make and communicate its 'determination' whether to comply with a FOIA request within certain statutory timelines, the requester 'shall be deemed to have exhausted his administrative remedies.' 5 U.S.C. § 552(a)(6)(C)(i)." See Citizens For Responsibility And Ethics In Washington v. Federal Election Commission, 711 F.3d 180, 184 (D.C. Cir. 2013).

15. "The Statutory timeline relevant to this case specifies that once an agency receives a proper FOIA request, the agency shall:

determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination. Id. § 552(a)(6)(A)(i)." Id. at 184.

16. "If the agency does not make a 'determination' within the relevant statutory time period, the requester may file suit without exhausting administrative appeal remedies." Id. at 185.

17. As Petitioner has not received an agency determination within the statutory time period, Petitioner is permitted to seek redress from this Honorable Court.

18. Thus, Petitioner most respectfully requests this Court order the production by Respondent of all documents laid out in Petitioner's requests within twenty (20) days.

19. It is Petitioner's respectful position, the responding agencies have waived withholding or redaction by failing to make required determination for more than two (2) years. However, if Petitioner is incorrect in his belief, Petitioner also most respectfully requests that a Vaughn index be assembled identifying in detail any and all documents being withheld and/or redactions made.

20. Furthermore, petitioner requests the imposition of sanctions in the form of payment of attorney fees and cost of filing suit due to Respondent's failure to respond within the parameters of the statute, forcing Petitioner to seek redress from this Honorable Court.

21. Petitioner also requests any and all just relief this Honorable Court believes appropriate.

Respectfully submitted,



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